IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 25304 of 2004

Between:

Shaik Nazeer S/o Shaik Muneeruddin
H.No.5-5-182/1/A, Darussalam, Hyderabad.

..... PETITIONER

AND

1 The Superintending Engineer Operations, AP., Central Power Distribution Co. ltd.,
Mint Compound, Hyderabad.
2 The Divisional Engineer City -X, AP, Central Power Distribution Co. Ltd.,
Begum Bazar, Hyderabad.
3 The Asst. Divisional Engineer, OP/DIST-XXX/City -IX
AP.Central Power Distribution Co. Ltd., Begum Bazar , Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing the initial assessment notice Lr.No.ADE/OP/DIST-XXV/CITY-IX/F.No.167/D.No.912/2003-04, dt. 09/12/2004 is illegal, arbitrary, unjust and against the principles of natural justice and is in violation of Art. 14,19(1)(g) and 21 of the Constitution of India, and consequently direct the respondents to restore the service connection of the petitioner.

Counsel for the Petitioner:MR.M.PRATAP SINGH

Counsel for the Respondents 1 to 3: SMT.M.VINOBHA DEVI

The Court at the stage of admission made the following ORDER:

The power supply of the petitioner was disconnected, on the ground that he failed to pay a sum of Rs.20,469/- representing half of the amount indicated in the provisional assessment order dated 19.12.2004. The petitioner challenges the action of the respondents.

Heard learned counsel for the petitioner and learned standing counsel for the respondents.

As on today, the petitioner is served with only an order of provisional assessment. It has to be followed by a show cause notice and thereafter an order of final assessment. It is only when an order of final assessment is passed that the petitioner can be held liable to pay the amount indicated therein. A consumer cannot be fastened with any liability on the strength of an order of provisional assessment. A Division Bench of this Court has taken such a view and the same has been followed by this Court in number of cases.

Hence, the writ petition is disposed of directing that the respondents shall restore the power supply to the petitioner without insisting on payment of any amount covered by the order of provisional assessment. It is, however, directed that the petitioner shall be liable to pay the regular consumption charges and his liability in relation to the acts of pilferage alleged against him would depend on the findings recorded in the order of final assessment. There shall be no order as to costs.

31.12.2004

ksld

To

1 The Superintending Engineer Operations, AP., Central Power Distribution Co. ltd.,
Mint Compound, Hyderabad.
2 The Divisional Engineer City -X, AP, Central Power Distribution Co. Ltd.,
Begum Bazar, Hyderabad.
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4 Two CD copies.